

This Instrument Prepared by:

Felton W. Smith
Balch & Bingham LLP
P. O. Box 306
Birmingham, Alabama 35233

STATE OF ALABAMA
SHELBY COUNTY

Inst # 1998-39622

10/09/1998-39622
10:51 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

013 CRH 1122.50

**SECOND LOAN MODIFICATION AGREEMENT
AND MORTGAGE AMENDMENT**

This **SECOND LOAN MODIFICATION AGREEMENT AND MORTGAGE AMENDMENT** is entered into as of September 18, 1998, by and between **COMPASS BANK**, an Alabama banking corporation ("Lender"), and **GREYSTONE FARMS NORTH, L.L.C.**, an Alabama limited liability company ("Borrower"), and **WENDELL HILL TAYLOR, JR., WILLIAM L. THORNTON, III, DANIEL B. TAYLOR, LINDSAY TAYLOR MCGRAW, MICHAEL DARWIN FULLER and PENNY TAYLOR FULLER** (collectively, "Guarantors").

WITNESSETH:

WHEREAS, on November 20, 1996, Lender extended a development loan to Borrower in the amount of \$3,250,000.00 pursuant to a Promissory Note dated November 20, 1996 (the "First Note"), Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement in the amount of \$3,250,000.00, which was recorded as Instrument No. 1996-38580, in the Office of the Judge of Probate of Shelby County, Alabama (as amended, the "Mortgage"), Pledge Agreements executed by Wendell Hill Taylor, Jr., Daniel B. Taylor, Lindsay Taylor McGraw, Michael Darwin Fuller and Penny Taylor Fuller, all dated on or about November 20, 1996 (the "Pledge Agreements"), Construction Loan Agreement by and between Lender and Borrower dated November 20, 1996 (the "Loan Agreement"), and other documents executed in connection therewith; and

WHEREAS, the Mortgage provides that the Mortgage secures all future obligations and liabilities of Borrower to Lender until actual cancellation of the Mortgage on the probate records of Shelby County, Alabama, and the Mortgage has not been so cancelled; and

WHEREAS, subject to the terms and conditions of that certain Commitment Letter by and between Lender and Borrower dated March 13, 1997 (the "Commitment Letter"), Lender advanced additional funds to Borrower in the amount of One Million Nine Hundred Twenty-Five Thousand and No/100 Dollars (\$1,925,000.00) evidenced by a second Promissory Note dated March 27, 1997 (the "Second Note") a portion of which was to be used to reduce the amount outstanding under the First Note and the remainder of which was to be used for further development of the Mortgaged Property and in connection therewith, Lender and Borrower entered into that certain First Loan Modification Agreement and Mortgage Amendment recorded as Instrument No. 1997-10185 in said Probate Office; and

Canada Title, Inc.

WHEREAS, Borrower has requested and, subject to the terms and conditions of that certain Commitment Letter by and between Lender and Borrower dated September 14, 1998 (the "Commitment Letter"), Lender has agreed to advance additional funds to Borrower in the amount of up to Seven Hundred Twenty Thousand and No/100 Dollars (\$720,000.00) (such funds, together with any other amounts advanced by Lender to or on behalf of Borrower pursuant to any of the Loan Documents (as defined below) being herein referred to as the "Loan") to be evidenced by a third Promissory Note dated of even date herewith (the "Third Note"; and together with the First Note and the Second Note, the "Notes") which will be used for further development of the Mortgaged Property; and

WHEREAS, Lender has agreed to extend the Loan in accordance with the terms and subject to the conditions set forth in this Agreement and the other Loan Documents (as defined below).

A G R E E M E N T

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Borrower and Guarantors hereby agree as follows:

A. Amendment of Loan Agreement; Definition of Loan Documents.

1. The Loan Agreement shall be, and is hereby amended as follows:

(a) On page one, after the phrase "Loan Amount:" in the section setting forth the definitions of various terms, the amount "\$5,895,000.00" is inserted as the new Loan Amount.

(b) On page one, the following is added to the sentence immediately following the phrase "Commitment Letter:" in the section setting forth the definitions of various terms: "and to Borrower dated September 14, 1998."

(c) The Commitment Letter is hereby incorporated into and made a part of the Loan Agreement and all references in the Loan Agreement to the "Commitment Letter" shall be deemed to be references to said Commitment Letter as defined above.

(d) All references in the Loan Agreement to the "Project," "Loan," "Loan Amount," "Loan Documents," "Collateral," "Mortgaged Property," "Construction Budget" and any other defined or capitalized term contained therein shall be deemed to be references to the same as may be amended or modified by this Agreement.

(e) The Loan Agreement, as amended above, is hereby restated, republished and affirmed by Borrower in its entirety, including without limitation, each and every warranty, representation, covenant and agreement made by Borrower therein.

2. Borrower and Lender agree that the Loan shall be disbursed, secured, administered and otherwise governed by the terms and conditions of the Loan Agreement. In addition to this Agreement and the Third Note, Borrower, Guarantor and other parties have executed and delivered to Lender other documents evidencing, securing, guaranteeing or otherwise relating to the Loan. Such other documents, together with the Notes, this Agreement, the Loan Agreement, the Mortgage, the Guaranties from the Guarantors and the Pledge Agreements, and as any of the same are hereby or may in the future be amended, modified, extended, replaced or renewed, are herein referred to as the "Loan Documents."

B. Execution of Third Note. Borrower shall execute and deliver to Lender a Promissory Note in the amount of \$720,000.00 dated of even date herewith (the "Third Note"). The Loan shall be evidenced by the Notes and the Loan and the Notes shall be secured by, and be entitled to all the benefits of, the Mortgage, the Loan Agreement and the other Loan Documents.

C. Amendment of Mortgage. The Mortgage is hereby amended as follows:

1. On page one, the first "WHEREAS" clause is hereby deleted and the following inserted in lieu thereof:

"WHEREAS, Borrower is justly indebted to Bank on a loan (the "Loan") in the principal sum of Five Million Eight Hundred Ninety-Five Thousand and No/100 Dollars (\$5,895,000.00), or so much as may from time to time be disbursed thereunder, as evidenced by promissory notes dated November 20, 1996, March 27, 1997 and September 18, 1998, payable with interest thereon (the "Note") on demand or as otherwise provided in the Note; and"

2. All references in the Mortgage to the "Project," "Loan," "Loan Amount," "Loan Documents," "Collateral," "Mortgaged Property," "Construction Budget" and any other defined or capitalized term contained therein shall be deemed to be references to the same as may be amended or modified by this Agreement.

3. The Mortgage, as amended above, is hereby restated, republished and affirmed by Borrower in its entirety, including without limitation, each and every representation, warranty, covenant and agreement made by Borrower therein.

D. Representations and Warranties. Each and every representation, warranty, covenant and agreement contained in the Loan Documents is hereby reaffirmed as of the date

hereof. Borrower hereby represents, warrants and certifies to Lender that no Event of Default nor any condition nor any event that with notice or lapse of time or both would constitute an Event of Default, has occurred and is continuing under any of the Loan Documents or the Loan, and that Borrower has no offsets or claims against Lender arising under, related to, or connected with the Loan, the Loan Agreement or any of the other Loan Documents.

E. Expenses. Borrower shall pay any recording and all other expenses incurred by Lender and Borrower in connection with the modification of the Loan and amendment of the Loan Documents and any other transactions contemplated hereby, including without limitation, title or other insurance premiums, survey costs, legal expenses, and recording fees and taxes.

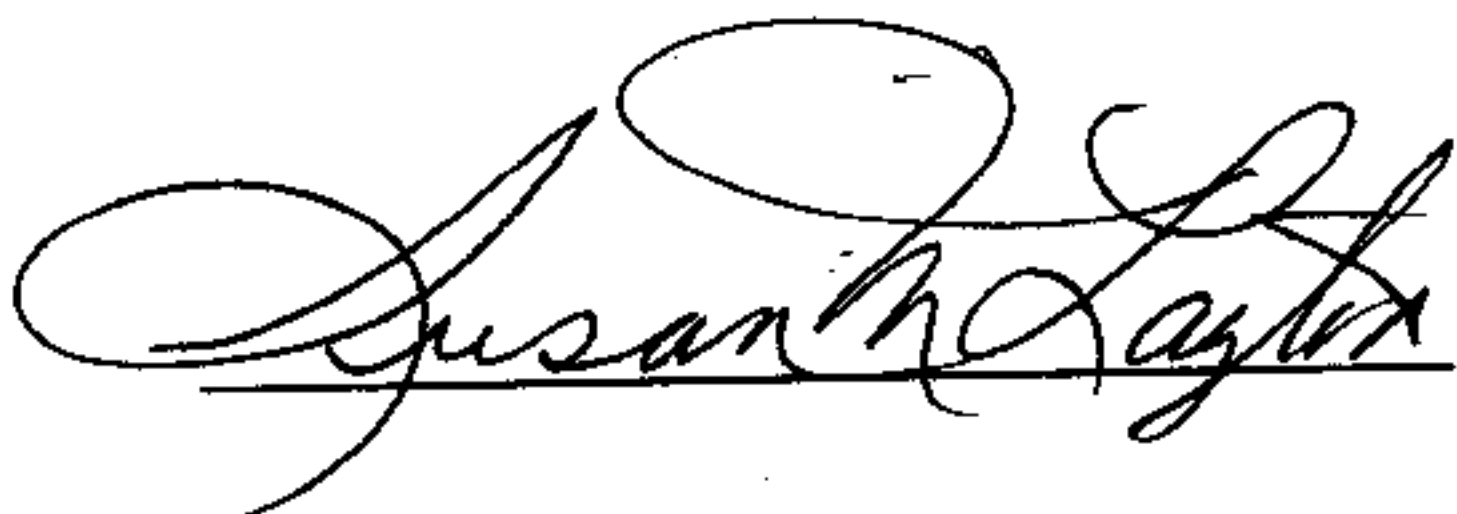
F. Effect on Loan Documents. Each of the Loan Documents shall be deemed amended as set forth hereinabove and to the extent necessary to carry out the intent of this Agreement and, except as expressly set forth herein, all of the Loan Documents shall remain in full force and effect in accordance with their respective terms and shall continue to evidence, secure, guarantee or relate to, as the case may be, the Loan.

G. Execution by Guarantors. The Guarantors have executed this Agreement to acknowledge and evidence their consent to the transactions contemplated hereby, including the execution and delivery of the Third Note, the modification of the Loan and the amendments to the Loan Documents as described herein, and to acknowledge and affirm the continuing effect of their Guaranties and the obligations contained therein.

H. Severability. In case any one or more of the covenants, agreements, terms or provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity and enforceability of the remaining covenants, agreements, terms or provisions contained herein shall in no way be prejudiced, diminished or otherwise affected thereby.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be duly and properly executed as of the date first set forth above.

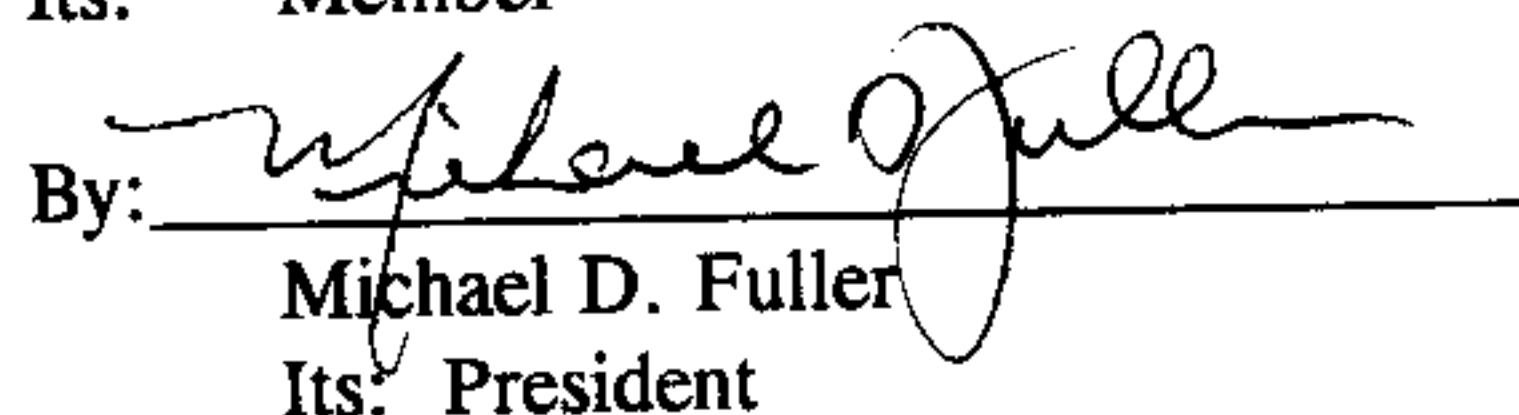
WITNESS:



BORROWER:

GREYSTONE FARMS NORTH, L.L.C.

By: Tyrol, Inc.
Its: Member

By: 
Michael D. Fuller
Its: President

LENDER:

COMPASS BANK

WITNESS:

Mary P. Thornton

By: 

Its: Vice President

GUARANTORS:

WITNESS:

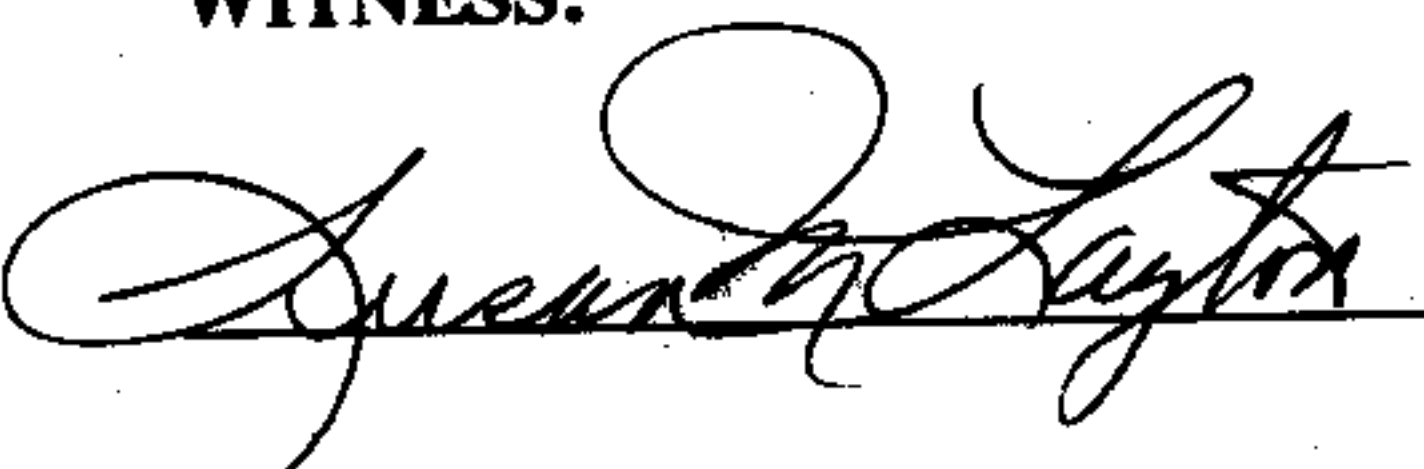
WENDELL HILL TAYLOR, JR.

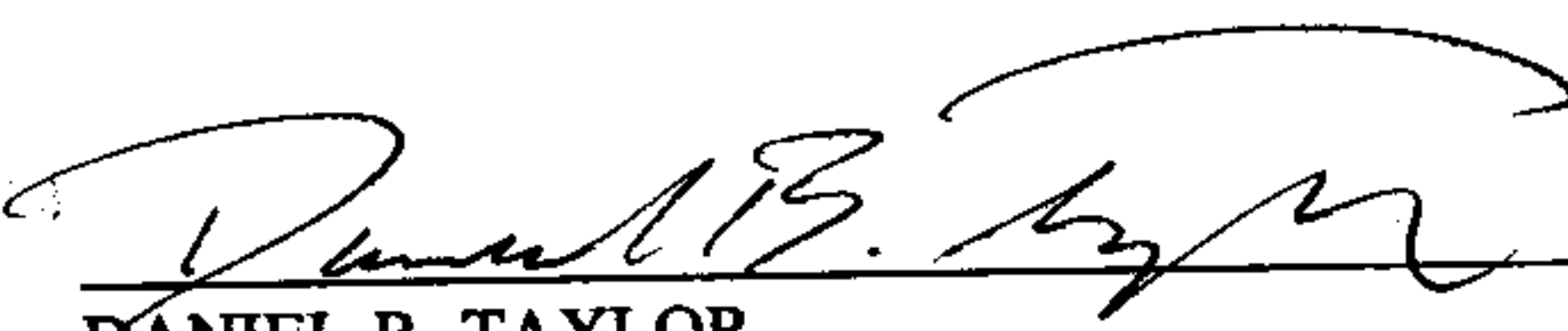
WITNESS:

Michael J. Allen


WILLIAM L. THORNTON, III

WITNESS:




DANIEL B. TAYLOR

WITNESS:

LINDSAY TAYLOR MCGRAW

WITNESS:

Mary P. Thornton

LENDER:

COMPASS BANK

By: [Signature]
Its: Vice President

GUARANTORS:

WITNESS:

[Signature]

[Signature]
WENDELL HILL TAYLOR, JR.

WITNESS:

[Signature]

[Signature]
WILLIAM L. THORNTON, III

WITNESS:

[Signature]

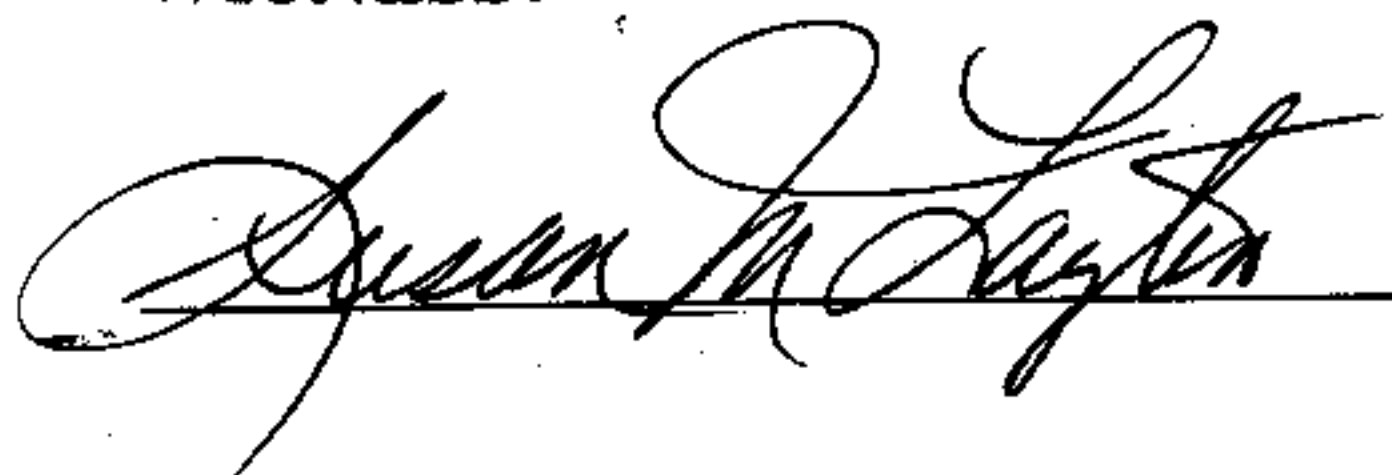
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DANIEL B. TAYLOR

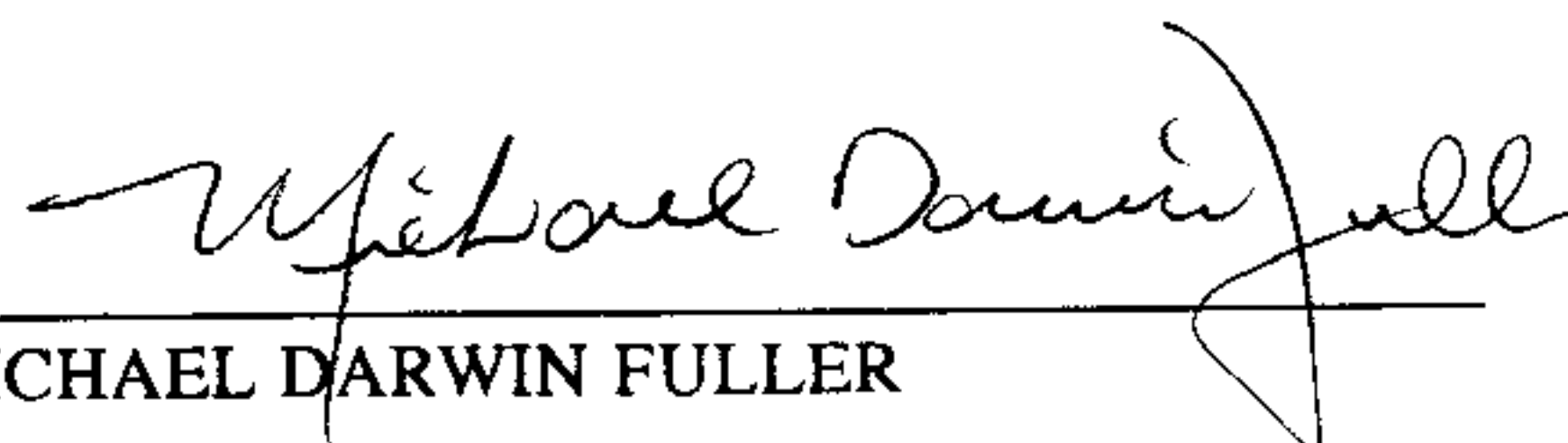
WITNESS:

[Signature]

[Signature]
LINDSAY TAYLOR MCGRAW

WITNESS:




MICHAEL DARWIN FULLER

WITNESS:




PENNY TAYLOR FULLER

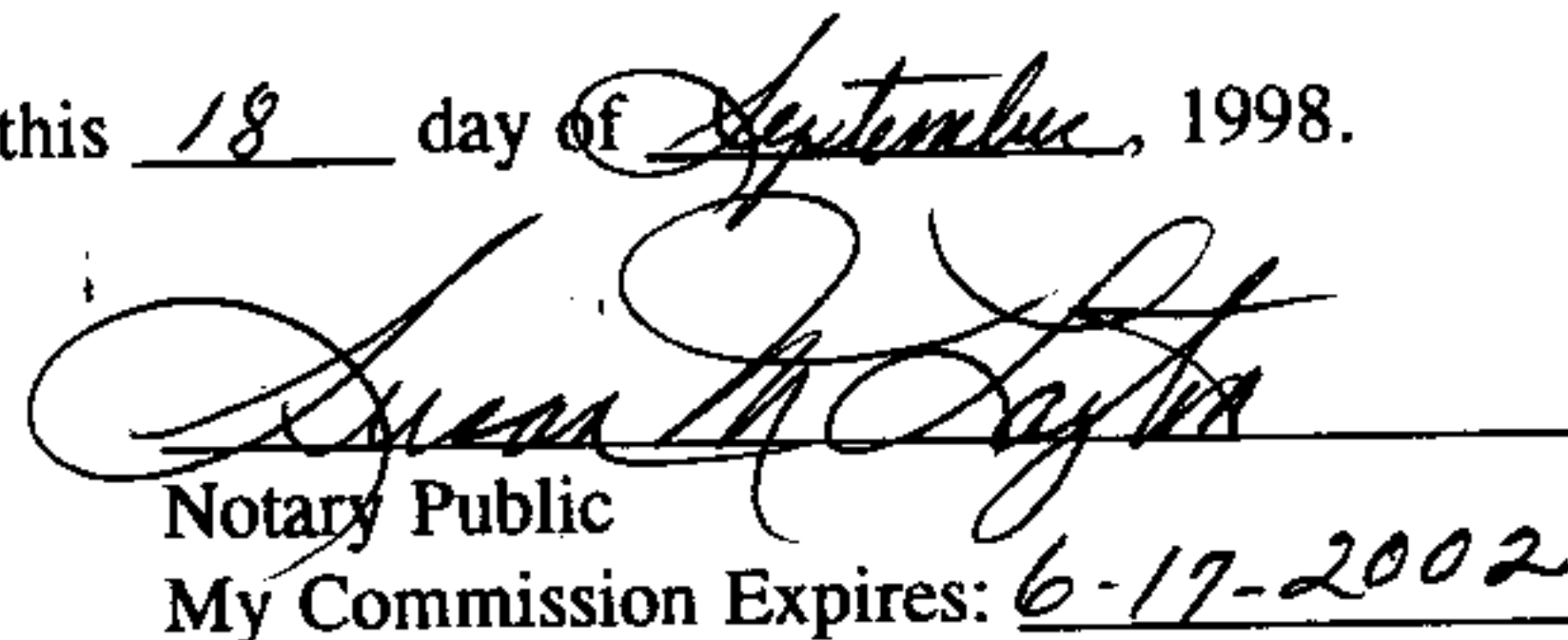
STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that Michael D. Fuller, whose name as President of Tyrol, Inc., a corporation, as a Member of **GREYSTONE FARMS NORTH, L.L.C.**, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as member as aforesaid.

Given under my hand and official seal this 18 day of September, 1998.

[Notarial Seal]


Notary Public
My Commission Expires: 6-17-2002

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that Travis G. McKay, whose name as Vice President of **COMPASS BANK**, a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 18TH day of September, 1998.

Mary P. Thant
Notary Public
My Commission Expires: 5/24/99

[Notarial Seal]

STATE OF ALABAMA

COUNTY OF _____

I, the undersigned, a notary public in and for said county in said state, hereby certify that **WENDELL HILL TAYLOR, JR.**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this _____ day of _____, 1998.

Notary Public
My Commission Expires: _____

[Notarial Seal]

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that Travis G. McKay, whose name as Vice President of **COMPASS BANK**, a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 18TH day of September 1998.

Mary P. Thawte
Notary Public
My Commission Expires: 5/24/99

[Notarial Seal]

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that **WENDELL HILL TAYLOR, JR.**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this 29 day of September 1998.

[Signature]
Notary Public
My Commission Expires: 6-17-2002

[Notarial Seal]

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that **WILLIAM L. THORNTON, III**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this 18th day of September, 1998.

[Notarial Seal]

Mary T. Thornton
Notary Public
My Commission Expires: 5/24/99

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that **DANIEL B. TAYLOR**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this 18 day of September, 1998.

[Notarial Seal]

Daniel B. Taylor
Notary Public
My Commission Expires: 6-17-2002

STATE OF ALABAMA

COUNTY OF _____

I, the undersigned, a notary public in and for said county in said state, hereby certify that **LINDSAY TAYLOR MCGRAW**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, she executed the same voluntarily.

Given under my hand and official seal this _____ day of _____, 1998.

[Notarial Seal]

Notary Public

My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that **MICHAEL DARWIN FULLER**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this 18 day of September, 1998.

[Notarial Seal]

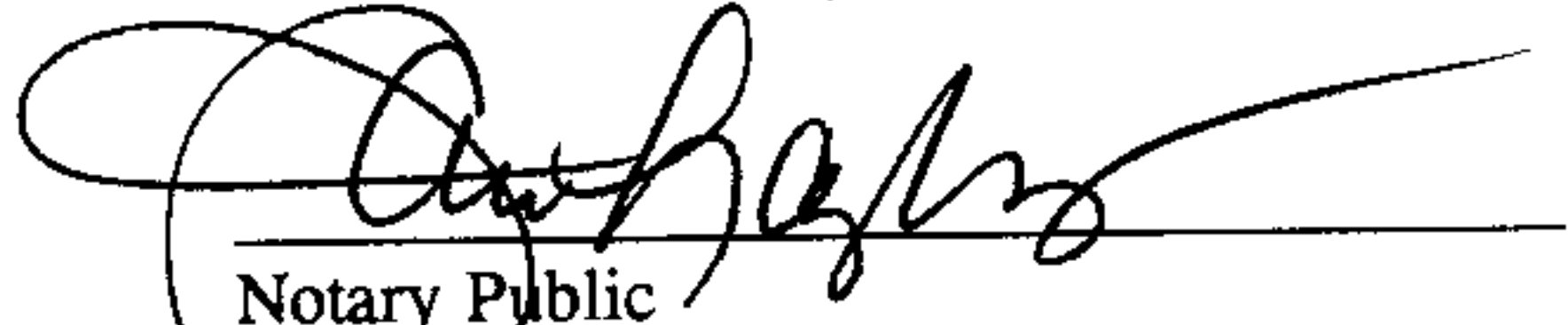
Susan R. Lyda
Notary Public

My Commission Expires: 6-17-2002

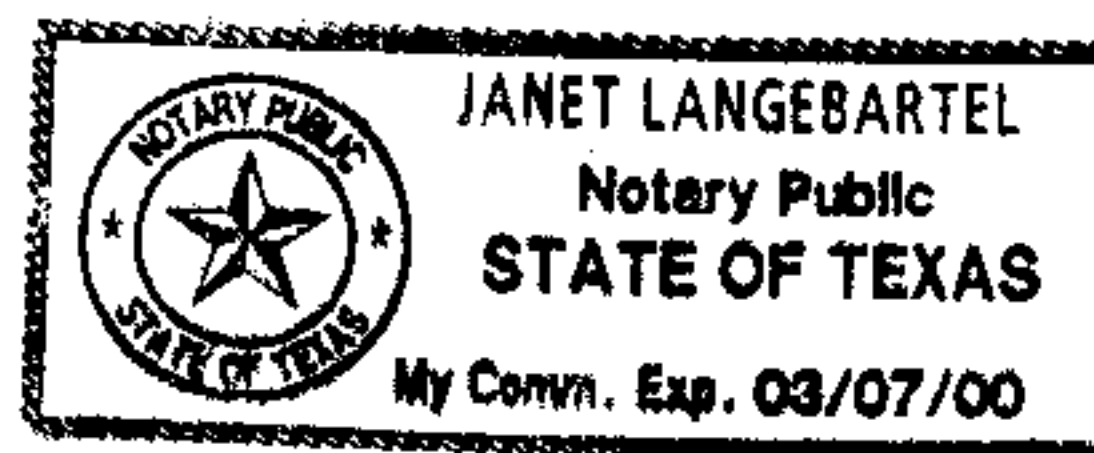
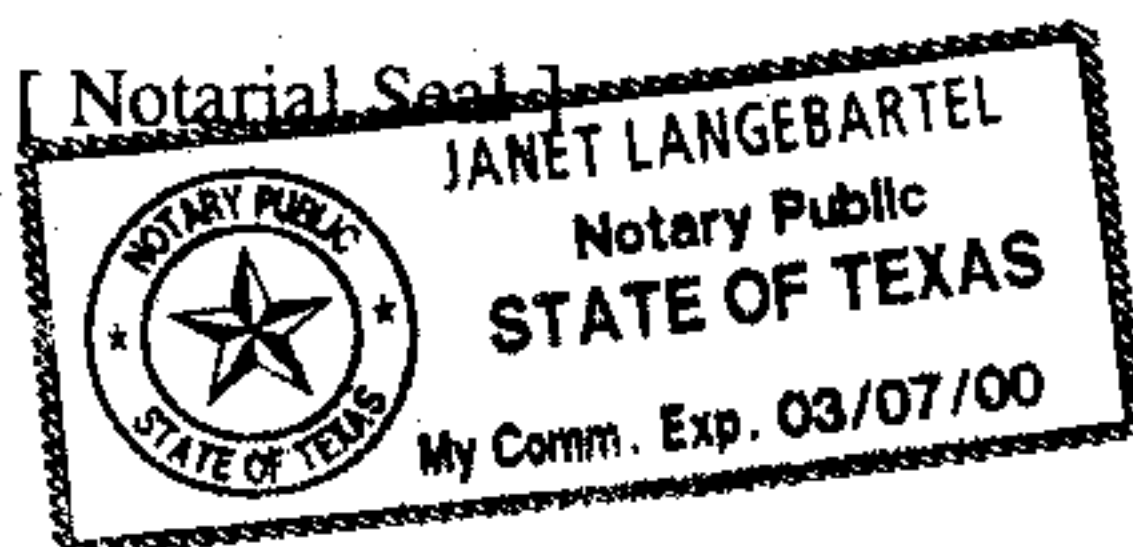
STATE OF ~~ALABAMA~~ Texas
COUNTY OF Tarrant

I, the undersigned, a notary public in and for said county in said state, hereby certify that **LINDSAY TAYLOR MCGRAW**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, she executed the same voluntarily.

Given under my hand and official seal this 23rd day of Sept., 1998.



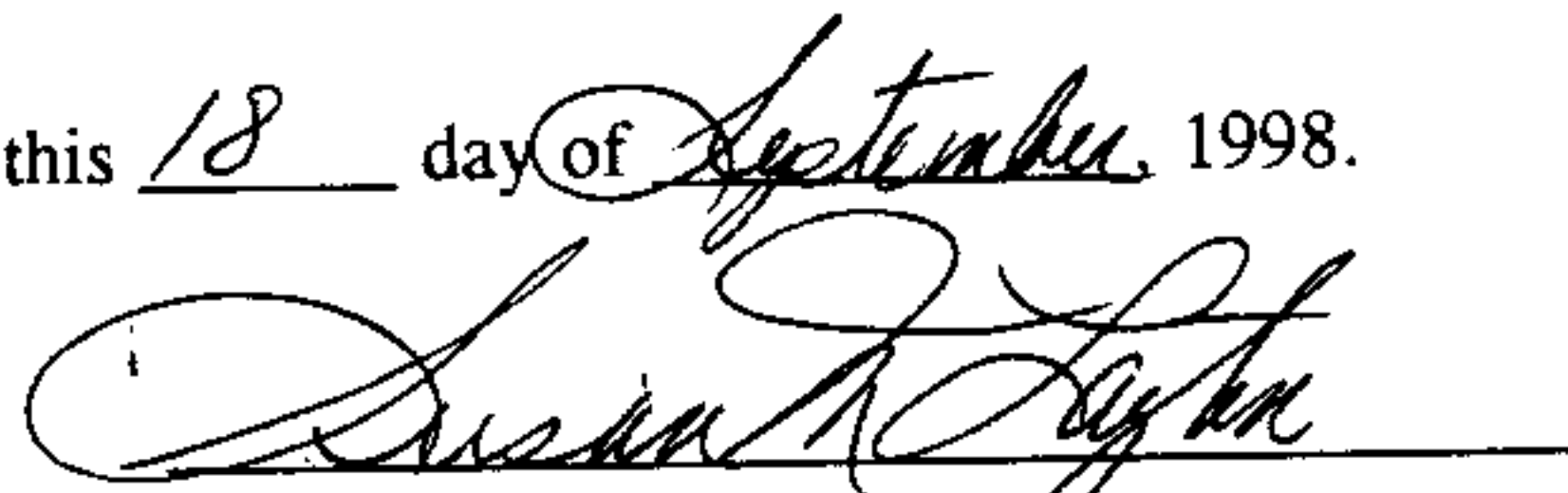
Notary Public
My Commission Expires: _____



STATE OF ALABAMA
COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that **MICHAEL DARWIN FULLER**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this 18 day of September, 1998.



Notary Public
My Commission Expires: 6-17-2002

[Notarial Seal]

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned, a notary public in and for said county in said state, hereby certify that **PENNY TAYLOR FULLER**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of such instrument, she executed the same voluntarily.

Given under my hand and official seal this 18th day of September, 1998.

Mary P. Thout
Notary Public
My Commission Expires: 5/24/99

[Notarial Seal]

Second Loan Modification Agreement
and Mortgage Amendment

Inst # 1998-39622

10/09/1998-39622 Page 10
10:51 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
013 CRH 1122.50